

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
FLORENCE DIVISION

Jermaine Demetrius Miles, #233110,)	C.A. No. 4:06-cv-02256-TLW-TER
)	
Plaintiff,)	
)	
-versus-)	ORDER
)	
Capt. W. Brightharp; Lt. Kevin Williams;)	
Sgt. Ronald Wilson; Sgt Franklin Jones;)	
Cpl. Winston Jamison; Cpl. Albert Smith;)	
Ofc. L. Mathis; Ofc. Palmer; and Ofc. Adam Wade,)	
)	
Defendants.)	
)	

This matter is now before the undersigned for review of the Report and Recommendation (“the Report”) filed by United States Magistrate Judge Thomas E. Rogers, III, to whom this case had previously been assigned pursuant to 28 U.S.C. § 636(b) and Local Rule 73.02(B)(2) (D.S.C.). In his Report, Magistrate Judge Rogers recommends that the complaint in this action be dismissed pursuant to Federal Rule of Civil procedure 41(b). In the alternative, it is recommended that the defendants’ motion for summary judgment be granted in its entirety and that this matter be dismissed. (Doc. # 27). The plaintiff has filed a letter addressed to Magistrate Judge Rogers received June 8, 2007. This was docketed by the Clerk’s office as objections to the Report, even though it was filed approximately one month after objections to the Report were due. Out of an abundance of caution, the Court will consider the letter as plaintiff’s objections.

In conducting this review, the Court applies the following standard:

The magistrate judge makes only a recommendation to the Court, to which any party may file written objections. . . . The Court is not bound by the recommendation of the

magistrate judge but, instead, retains responsibility for the final determination. The Court is required to make a de novo determination of those portions of the report or specified findings or recommendation as to which an objection is made. However, the Court is not required to review, under a de novo or any other standard, the factual or legal conclusions of the magistrate judge as to those portions of the Report and Recommendation to which no objections are addressed. While the level of scrutiny entailed by the Court's review of the Report thus depends on whether or not objections have been filed, in either case, the Court is free, after review, to accept, reject, or modify any of the magistrate judge's findings or recommendations.

Wallace v. Housing Auth. of the City of Columbia, 791 F.Supp. 137, 138 (D.S.C. 1992) (citations omitted).

In light of this standard, the Court has reviewed, de novo, the Report and the objections thereto. The Court accepts the Report. In his "objections" plaintiff still creates no genuine issue of material fact as to why summary judgment should not be granted in this case. He does not contradict that the relief requested by him is now moot because he has been transferred to another facility, nor that there are no remaining issues of fact.

THEREFORE, IT IS HEREBY ORDERED that the Magistrate Judge's Report is **ACCEPTED** (Doc. # 27); plaintiff's objections are **OVERRULED** (Doc. # 29); and defendants' motion for summary judgment is **GRANTED** (Doc. # 20) in its entirety and this matter is **DISMISSED**.

IT IS SO ORDERED.

s/ Terry L. Wooten
TERRY L. WOOTEN
UNITED STATES DISTRICT JUDGE

August 21, 2007
Florence, South Carolina